

## **California Environmental Protection Agency**

### **RESPONSES TO MAJOR COMMENTS ON THE JULY 2004 DRAFT INTRA-AGENCY ENVIRONMENTAL JUSTICE STRATEGY**

**August 27, 2004**

#### **Introduction**

The California Environmental Protection Agency's (Cal/EPA) intra-agency environmental justice (EJ) strategy represents an initial step in Cal/EPA's long-term EJ strategic planning process. The strategy provides the long-term vision and guide for Cal/EPA's boards, departments, and office (BDOs) for identifying and addressing gaps that may impede the achievement of environmental justice.

Cal/EPA has purposely developed broad concepts and themes to guide our BDOs in the development of BDO-specific environmental justice objectives and work plans, with specific actions and measurable targets adapted to BDO-specific responsibilities and priorities. We believe this approach is necessary to address the complexity of environmental justice in a timely and deliberate manner. The BDO-specific EJ work plans will identify performance measures that include specific commitments and deadlines to fulfill the overarching goals and objectives of the Cal/EPA intra-agency EJ strategy.

The following are responses to major comments received by Cal/EPA on the July 2004 draft intra-agency environmental justice strategy developed pursuant to Public Resources Code (PRC) sections 71110-71113. Cal/EPA received written comments from the following individuals and organizations:

- Bay Area Air Quality Management District
- California Council for Environmental and Economic Balance
- California Environmental Rights Alliance
- Center for Community Action and Environmental Justice<sup>1</sup>
- Center on Race, Poverty, & the Environment
- City and County of San Francisco, Department of the Environment
- Clean Water Action
- Community Action to Fight Asthma
- Environmental Health Coalition<sup>1</sup>
- Senator Martha Escutia, California State Senate, 30<sup>th</sup> District
- People Organizing to Demand Environmental & Economic Rights<sup>1</sup>
- Regional Council of Rural Counties

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<sup>1</sup> The Center for Community Action and Environmental Justice, Environmental Health Coalition, and People Organizing to Demand Environmental & Economic Rights submitted joint comments on the July 2004 draft EJ strategy.

For the purpose of brevity, we have selected the more important or representative comments from each reviewer for responses. Comments appear in quotation marks where they are directly quoted from the submission, and appear in italics where they are paraphrased.

The complete texts of written comments submitted on the July 2004 draft strategy are available on Cal/EPA's EJ website at [www.calepa.ca.gov/EnvJustice](http://www.calepa.ca.gov/EnvJustice) or by request to:

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### **Comments from the Bay Area Air Quality Management District**

Comment 1: "The tone and language of the draft document reflect a sincere attempt to identify and respond to EJ issues. The objectives identified (if implemented) can only result in improved environmental quality for the public... The fact that the need for accountability to the public is recognized and included as an objective is commendable. Providing a triennial report to the legislature and public will allow performance review of the program to ascertain whether it is working effectively or needs additional revisions."

Response 1: No changes are needed.

Comment 2: "In the fourth bullet item on page 3, the phrase... '...minority populations...' needs to be clarified within this document. For example, on page 6, in Goal No. 3, the term '...communities of color...' is used. Are these terms meant to be interchangeable? How should ethnic minorities, gender-based minorities, and immigrant-based minority populations be referenced?"

Response 2: The language on page 3 is taken verbatim from PRC sections 71110-71113 to explain Cal/EPA's statutory environmental justice mandates; the term "minority populations" is not used elsewhere in the intra-agency EJ strategy. The language in Goal 3 of the intra-agency strategy is taken verbatim from Goal #3 recommended by the Cal/EPA Advisory Committee on Environmental Justice (Advisory Committee); the term "communities of color" is not used elsewhere in the intra-agency EJ strategy. The strategy is intended to provide the overarching vision and leadership toward ensuring fair treatment and accessibility for all Californians, regardless of race, age, culture, income, or geographic location.

Comment 3: "The term 'community capacity building' is not self-explanatory. The term should be defined to clarify what action is to be implemented (Goal No. 1)."

Response 3: Community capacity-building is described in the Advisory Committee's report (page 19 of the report) as addressing the needs of communities for "resources to increase their understanding of the technical and procedural aspects of environmental decision-making, in order to participate in a meaningful way." This definition has been added to the section discussing the objectives for Goal 1.

### **Comments from the California Council for Environmental and Economic Balance (CCEEB)**

Comment 1: "CCEEB suggests that Cal/EPA state in the Strategy that Cal/EPA and the BDOs [boards, departments and office] will take into account the cost-effectiveness of measures and the impacts on the creation and retention of jobs and business climate as they develop and consider options for solutions to environmental justice problems... As Cal/EPA and the BDOs move forward to develop solutions for addressing environmental justice gaps, there are likely to be multiple effective options for addressing a particular gap. One option will likely be more cost-effective than another option. One option will likely have less of an impact on jobs or business climate than another option. If the State can develop effective solutions that minimize the impacts on jobs or business climate, the State will be meeting the environmental justice mandates in an effective and prudent way."

Response 1: We recognize the need to consider economic impacts and have included language on page 6 of the intra-agency strategy, in the "Achieving the Goals" section, to ensure that Cal/EPA's BDOs develop and implement EJ activities with appropriate consideration of science-based approaches, cost-effectiveness, and programmatic solutions, and with a clear statement of regulatory requirements for affected communities and businesses.

### **Comments from the California Environmental Rights Alliance**

Comment 1: "We seek a commitment that this EJ Strategy will result in specific measurable objectives bound by deadlines."

Response 1: Cal/EPA has added language in the "Achieving the Goals" section, specifying that "performance measures that include specific commitments and deadlines" be identified in BDO-specific EJ work and implementation plans to fulfill the goals and objectives of the intra-agency strategy. We have also added language for BDO-specific environmental justice strategies, work plans, and related implementation documents to be reviewed by Cal/EPA's Interagency Working Group on Environmental Justice (IWG), with input and recommendations from Advisory Committee members, before they are finalized.

Comment 2: "We also suggest... a commitment to address environmental justice needs through the permitting process. The achievement of environmental justice in California will depend upon [the Secretary's] ability to revise how Cal/EPA's boards and departments make environmental permitting decisions, including improvements to public participation rights and opportunities, the

assessment and mitigation of cumulative environmental impacts, and the explicit consideration of possible adverse environmental justice impacts.”

Response 2: Cal/EPA has clarified in the discussion of criteria and objectives for Goal 2, Environmental Justice Integration, that environmental justice issues be considered and addressed when developing, revising, implementing and enforcing permitting programs.

### **Comments from the Center for Community Action and Environmental Justice, the Environmental Health Coalition, and People Organizing to Demand Environmental & Economic Rights**

Comment 1: “We would suggest that the... Strategy include, under each objective, the more specific actions or recommendations that will be implemented in order to achieve that objective.”

Response 1: Cal/EPA has purposely developed broad concepts and themes to guide our BDOs in the development of BDO-specific environmental justice objectives and work plans, with specific actions and measurable targets adapted to BDO-specific responsibilities and priorities. We believe this approach is necessary to address the complexity of environmental justice in a timely and deliberate manner. The BDO-specific EJ work plans will identify performance measures that include specific commitments and deadlines to fulfill the overarching goals and objectives of the Cal/EPA intra-agency EJ strategy.

Comment 2: “The Core Values must be expanded to include values related to intended outcomes of the Strategy... For example, values such as environmental justice, precaution, and pollution prevention, which are values fundamental to the Advisory Committee Recommendations, should be added to this list to make it more complete.”

Response 2: In strategic planning, core values are intended to set a desirable code of behavior to which the organization adheres or aspires in maintaining its organizational integrity and achieving its mission<sup>2</sup>. In the EJ strategy, core values such as leadership, accountability, objectivity, responsiveness, respect and quality are the ideals and standards that will guide Cal/EPA toward achieving our environmental justice mission. Approaches such as precaution and pollution prevention are tools to be considered and incorporated, as appropriate, by Cal/EPA and our BDOs in developing and implementing activities to address environmental justice issues.

Comment 3: “The Objectives for Goal 1 are incomplete and should be expanded to include the concepts of two-way communication with the community, early outreach to communities, and capacity-building... Capacity-building is a fundamental concept to effective public participation, and should be more clearly stated as an Objective.”

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<sup>2</sup> Bryson, John M. *Strategic Planning for Public and Nonprofit Organizations*. (Revised Edition.) San Francisco: Jossey-Bass Publishers, 1995.

Response 3: Cal/EPA agrees that two-way communication with and early outreach to all stakeholders is important for meaningful public participation. Objective A for Goal 1 specifies that Cal/EPA's BDOs will develop procedures to ensure this, with consideration of actions recommended in the Advisory Committee's report; we have added language to clarify that these actions include early outreach efforts and communication with stakeholders to identify issues, questions, and concerns. With regards to community capacity-building, Objective D for Goal 1 specifies Cal/EPA's intent to assist communities, Tribes, and local governments in enhancing their knowledge and understanding of, and participation in, environmental issues and governmental processes. Specificity regarding actions to accomplish this objective will be developed as part of the BDO-specific EJ strategies and work plans.

Comment 4: "The Objectives for Goal 2 do not reflect the breadth and complexity of the Advisory Committee Recommendations... Concepts such as cumulative impacts and pollution prevention are not reflected in the Objectives... The Objectives for Goal 3 do not include several concepts important to future research in environmental justice issues... The [Advisory Committee] Recommendations included research into issues of cumulative impacts, bio-monitoring, vulnerable populations, and multi-media analysis, to name a few, and we would suggest that these concepts be specifically included in the Objectives for this Goal."

Response 4: Cal/EPA acknowledges and appreciates the comprehensive recommendations and strategies in the Advisory Committee's report. In accordance with the IWG's resolution to implement recommendations that are determined to be reasonable and feasible, the intra-agency strategy provides the foundation for initial strategic actions, based on initial objectives drawn from the Advisory Committee's report. Cal/EPA will review and revise the strategy as necessary in consideration of evolving environmental justice issues, programs, policies, resources, and activities. Complex EJ concepts such as cumulative impacts and precautionary approaches will be explored through Cal/EPA's EJ action plan for future incorporation into programs, policies, and strategies, as appropriate.

### **Comments from the Center on Race, Poverty, & the Environment (CRPE)**

Comment 1: "It is not clear whether this document is intended to supplant or supplement Cal/EPA's earlier released EJ Action Plan. Unless it is intended as a supplement or foundation, it appears inadequate to accomplish its stated goals as many of the issues addressed in the Action Plan are not addressed in the current document."

Response 1: Cal/EPA has added language in the "Achieving the Goals" section of the strategy to clarify that the long-term strategic planning process is supplemented with short-term activities in Cal/EPA's EJ action plan. Together, the intra-agency EJ strategy and the EJ action plan form the "Two-Pathway Approach" that Cal/EPA is taking to implement environmental justice. The short-term activities of the EJ action plan will feed back into the long-term strategic planning process, and vice versa, forming an integrated EJ implementation mechanism for Cal/EPA.

*Comment 2: Cal/EPA should include substantive goals in the strategy, with concrete and enforceable mechanisms to achieve environmental justice goals.*

Response 2: The intra-agency strategy adopts the same “Environmental Justice Goals” as those in the Advisory Committee’s Recommendations report. To achieve these goals, Cal/EPA has purposely developed broad concepts and themes to guide our BDOs in the development of BDO-specific environmental justice objectives and work plans. The BDO-specific work plans will identify performance measures with specific commitments and deadlines to fulfill the overarching goals and objectives of the intra-agency EJ strategy. We believe this approach is necessary to address the complexity of environmental justice in a timely and deliberate manner.

*Comment 3: Cal/EPA should use the Precautionary Principle as the basis for all environmental and public health laws, regulations, and decision-making processes.*

Response 3: In the development and implementation of regulatory functions, Cal/EPA’s inherent goal is to “err on the side of safety” in order to protect all Californians from environmental hazards and risks. The IWG has endorsed the goals and framework proposed in the Advisory Committee’s report. Hence, the intra-agency EJ strategy, in parallel with the Advisory Committee’s report, addresses the precaution within Goal 2. Additionally, complex EJ concepts such as precautionary approaches will be explored through Cal/EPA’s EJ action plan for future incorporation into programs, policies, and strategies, as appropriate. The EJ action plan is available at [www.calepa.ca.gov/EnvJustice](http://www.calepa.ca.gov/EnvJustice).

*Comment 4: “Ensuring ‘meaningful’ public participation means that Cal/EPA must make a commitment to respond to expressed public interests. A community must be allowed to not only participate in, but also have an actual effect on the results of any action... Community input should not be limited to the time after a decision has virtually been made. Instead, community participation during all phases ensures that each community is better informed and a better partner in the effort to achieve environmental justice.”*

Response 4: Cal/EPA agrees that two-way communication with and early outreach to all stakeholders is important for meaningful public participation. Objective A for Goal 1 specifies that Cal/EPA’s BDOs will develop procedures to ensure this, with consideration of actions recommended in the Advisory Committee’s report; we have added language to clarify that these actions include early outreach efforts and communication with stakeholders to identify issues, questions, and concerns.

*Comment 5: “Cal/EPA’s EJ clearinghouse should, among other strategies, canvass other states, and environmental justice organizations throughout the United States and the world, for the most effective approaches.”*

Response 5: Specificity regarding actions to accomplish this objective under Goal 3 will be developed as part of the BDO-specific EJ strategies and work plans. Cal/EPA has already

initiated efforts to canvass other entities for the most effective environmental justice approaches. More efforts will be put forth on this matter in the outreach and public participation activities proposed in Cal/EPA's EJ action plan.

## **Comments from the City and County of San Francisco, Department of the Environment**

Comment 1: "We agree that the Cal/EPA's BDOs should advance the four main goals as outlined in the Strategy... However, we wish to urge you to clarify and emphasize the importance of integrating the precautionary principle into Cal/EPA's Intra-Agency EJ Strategy. Under Goal #2, Objective E, the Strategy states, 'Identify where a precautionary approach is currently being used, or could be used, to address environmental justice issues.' This statement can be strengthened by a clear policy directive requiring Cal/EPA's BDO to apply the precautionary principle, through examination of a range of alternatives using the best available science and consideration of the alternative with the least potential threat to human health and the environment."

Response 1: Cal/EPA has purposely developed broad concepts and themes to guide our BDOs in the development of BDO-specific environmental justice objectives and work plans, with specific actions and measurable targets adapted to BDO-specific responsibilities and priorities. We believe this approach is necessary to address the complexity of environmental justice in a timely and deliberate manner. Complex EJ concepts such as precautionary approaches will be explored through Cal/EPA's EJ action plan for future incorporation into programs, policies, and strategies, as appropriate.

## **Comments from Clean Water Action**

Comment 1: "Many months of efforts have been put forth into this process and we strongly urge Cal/EPA to adopt the Environmental Justice Strategy without delay."

Response 1: Cal/EPA's formal work on developing the intra-agency EJ strategy began in 2001. We agree with the comment to finalize the document without delay.

Comment 2: "It is imperative for the final Strategy to include concrete deadlines with measurable commitments for achieving the goals and objectives put forth in the document. A specific implementation schedule creates strong accountability mechanisms and creates incentives for both Cal/EPA staff and communities to continue to energize this important process... While the goal of increasing research and data collection regarding impacts to environmental justice communities is an admirable one, Cal/EPA must prioritize dedicating resources toward regulatory structures and programs that have the power to generate real improvements in the health of California's communities and tribes..."

Response 2: Cal/EPA has purposely developed broad concepts and themes to guide our BDOs in the development of BDO-specific environmental justice objectives and work plans, with specific actions and measurable targets adapted to BDO-specific responsibilities and priorities. We believe this approach is necessary to address the complexity of environmental justice in a timely and deliberate manner. Cal/EPA has added language in the “Achieving the Goals” section, specifying that “performance measures that include specific commitments and deadlines” be identified in BDO-specific EJ work and implementation plans to fulfill the goals and objectives of the intra-agency strategy. To ensure intra-agency coordination and meaningful public participation, we have also committed to having BDO-specific environmental justice strategies, work plans, and related implementation documents be reviewed by the IWG, with input and recommendations from Advisory Committee members, before they are finalized and implemented.

Comment 3: *The strategy should include a commitment to address environmental justice through revisions to permitting practices.*

Response 3: Cal/EPA has clarified in the discussion of criteria and objectives for Goal 2, Environmental Justice Integration, that environmental justice issues be considered and addressed when developing, revising, implementing and enforcing permitting programs.

## **Comments from Community Action to Fight Asthma**

Comment 1: “On page 6, the authors appear to use the word ‘culture’ to represent ethnicity. The general public and researchers are more familiar with the terms race and ethnicity when describing population diversity and using demographic data, e.g., U.S. Census data. Please consider refinement of the vocabulary used.”

Response 1: The complete mission statement reads “To accord the highest respect and value to every individual and community, by developing and conducting our public health and environmental protection programs, policies, and activities in a manner that promotes equity and affords fair treatment, accessibility, and protection for ***all Californians, regardless of race, age, culture, income, or geographic location.*** [Emphasis added.]” The term “race” is used to represent ethnicity in this statement; we do not believe it is necessary to refine the use of the word “culture” in this context.

Comment 2: “On the final page with the Conclusion, I recommend defining the acronyms used again, even if they are appropriately defined the first time used earlier in the document. Some individuals may read specific parts of the document like pages 6 and 12.”

Response 2: We have addressed this comment, revising the language in the “Conclusion” section and defining the remaining acronym “Cal/EPA” used on this page.



## **Comments from Senator Martha M. Escutia, California State Senate, 30th District**

Comment 1: “I am concerned that the draft document does not specifically mention a strategic objective to address environmental justice issues through permit-related processes.”

Response 1: We have clarified, in the discussion of criteria and objectives for Goal 2, Environmental Justice Integration, that environmental justice issues be considered and addressed when developing, revising, implementing and enforcing permitting programs. This is specified in language pertaining to the criteria and Objective A for Goal 2.

Comment 2: “I also encourage you to identify more specifically how the Interagency Working Group will continue to collaborate with the Advisory Committee to ensure the implementation of the final intra-agency strategy... You may wish to consider amending the draft environmental justice strategy to include a description of the Advisory Committee role in Cal/EPA’s environmental justice efforts.”

Response 2: We have added language in the “Achieving the Goals” section, defining a role for Advisory Committee members to collaborate with the IWG in reviewing and making recommendations on BDO-specific environmental justice strategies, work plans, and related implementation documents. These documents will contain specific actions and commitments, measurable targets, and deadlines, adapted to BDO-specific responsibilities and priorities, to fulfill the goals and objectives of the intra-agency EJ strategy.

## **Comments from the Regional Council of Rural Counties (RCRC)**

Comment 1: “We are pleased that three of our four recommendations were incorporated into the July 2004 Draft... We believe, with these changes, that consultation and outreach to local government and locally elected officials is adequately addressed.”

Response 1: No changes are needed.

Comment 2: “We remain concerned, however, that our recommendation to require consideration of any disproportionate economic and/or social impacts to rural counties is not included... RCRC requests that you consider amending ‘Objective A’ in support of Goal #2 as follows: ‘When developing, adopting, and implementing environmental laws, regulations, and policies, identify and address environmental justice issues, including any disproportional economic impact, to any segment of the population.’”

Response 2: Cal/EPA recognizes the need to consider economic impacts and has included language on page 6 of the intra-agency strategy, in the “Achieving the Goals” section, to ensure that our BDOs develop and implement EJ activities with appropriate consideration of cost-effectiveness and other factors that affect communities and businesses. Consideration of potential disproportionate impacts to rural areas is also inherent in Objective G for Goal 1.